IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 5164 OF 2004
(Condonation of Delay)
ALONG WITH
CRIMINAL APPLICATION NO.950 OF 2005
(For Leave to Appeal)

The State of Maharashtra Appellant
vs.
Ramesh Niloo Chavan Respondent

Ms.V.R.Bhonsale, Additional Public Prosecutor for the State.

CORAM : R. M. LODHA &
R. S. MOHITE,JJ.

DATED : 21st February 2005

P.C.

Heard Ms.V.V. Bhonsale, the learned Additional Public Prosecutor.

2. By the judgment dated 6th April 2004 the Judicial Magistrate, First Class, Railway Court, Pune acquitted the present respondent of the offences punishable under Sections 392, 382, 171 and 471 of IPC. Dissatisfied thereby the State preferred the Criminal appeal (now converted in the criminal application for leave to appeal) on 19th November 2004. By this application, the State prays for condonation of delay.

3. The application for certified copy of the judgment dated 6th April 2004 was made on 23rd April 2004. The

certified copy was ready on 30th April 2004 and made available to the concerned Public Prosecutor on that date. The Public Prosecutor is said to have opined for filing the appeal and the Law and Judiciary Department is said to have issued Government resolution dated 23rd September 2004 for filing an appeal. The Government resolution was received by the office of the Public Prosecutor, High Court, A.S., Mumbai on 28th September 2004 and criminal appeal was preferred on 19th November 2004 as already noticed above.

4. The aforesaid facts would reveal that there is no sufficient cause set out by the State. There is no date given in the application as to when the concerned Public Prosecutor sent his proposal for filing the appeal to the Law and Judiciary Department. In the absence thereof, it cannot be said to what extent there was delay on the part of the Law and Judiciary Department in scrutinising the papers and then taking decision for filing appeal. The delay that took place in the office of the Public Prosecutor from 28th September 2004 until 19th November 2004 is sought to be explained by stereotype reason that the delay occurred due to lack of sufficient staff such as stenographers and typists.

5. We, thus, find that the delay in filing the criminal appeal (criminal application for leave to appeal) is not

sufficiently explained.

6. Even then we wanted to satisfy ourselves whether on merit any case for grant of leave against the judgment of acquittal is made out or not. After having heard the learned Additional Public Prosecutor, we are of the view that the consideration of the matter by the learned trial Judge cannot be said to suffer from any legal infirmity. The trial Judge has given the specific finding thus: (one) that the prosecution could not prove that the accused forged identity card as genuine; (two) that the prosecution failed to prove the seizure of the identity cards from the possession of the accused; (three) that the prosecution failed to examine the material witnesses such as Sundarmurthy, Krishnamurthy and Chalapandiyan; (four) that there was delay in lodging first information report and the said delay was not sufficiently explained and (five)that alleged payment of Rs.2,000/- by the complainant to the accused is not proved.

7. Besides that we find that the learned trial Judge has found that there were material discrepancies in the evidence of the complainant and his evidence was not in consonance with the prosecution case.

8. All in all, the judgment of acquittal thus cannot be

faulted.

9. Criminal application for condonation of delay as well as criminal application for leave to appeal are accordingly rejected.

(R.M. LODHA,J.)

(R.S. MOHITE,J.)